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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Comments on the Triennial Review of the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (the ``SPS Agreement'')

ACTION: Notice and request for comments.

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SUMMARY: The Trade Policy Staff Committee (TPSC) is requesting written public comments with respect to the review by the World Trade Organization (WTO) Committee on Sanitary and Phytosanitary Measures (the ``SPS Committee'') of the Agreement on the Application of Sanitary and Phytosanitary Measures (the ``SPS Agreement''). At the conclusion of the Uruguay Round, the WTO signatories agreed to review the SPS Agreement three years after its entry into force. The review is expected to focus on progress in implementing the SPS Agreement, including provisions relating to the requirement that measures be based on science and risk assessment, to transparency and notification procedures, harmonization of international sanitary and phytosanitary standards, and distinctions between the levels of sanitary and phytosanitary protection established in different situations. In particular, the United States will be assessing the contribution that implementation of the SPS Agreement makes to the reduction of unjustified barriers to agricultural trade, while preserving the United States' ability to protect human, animal and plant life and health. Comments received will be considered by the Executive Branch in formulating U.S. positions and objectives relating both to the scope of the review and to the specific issues to be considered by the SPS Committee during the review process.

DATES: Public comments are due by noon, January 9, 1998.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT:

John Ellis, Director for Sanitary and Phytosanitary Affairs, Office of WTO and Multilateral Affairs, USTR, (202-395-3063).

SUPPLEMENTARY INFORMATION: The Chairman of the TPSC invites written comments from the public on issues to be address in the course of the review by the WTO SPS Committee of the WTO SPS Agreement. The review will begin at the tenth meeting of the SPS Committee, scheduled for March 15-16, 1998 in Geneva, and will be on the Committee's agenda for the three other SPS Committee meetings scheduled in 1998, to take place in June, September and November.

Background

During the Uruguay Round of multilateral trade negotiations, a primary U.S. negotiating objective was to obtain substantial commitments for liberalization of international agricultural trade. The resulting WTO Agreement on Agriculture, which requires the elimination

of many non-tariff barriers and the phased reduction of tariffs on agricultural products, is providing significant new market access opportunities for U.S. agricultural exports.

The United States was aware during the Uruguay Round that unjustified sanitary and phytosanitary (SPS) measures have often restricted U.S. agricultural exports, even after tariffs or other non-tariff barriers have been reduced or eliminated. To address this problem, the SPS Agreement was negotiated to ensure that WTO members would not impose protectionist trade barriers disguised as SPS measures. The importance of the SPS Agreement to agricultural trade is reflected in Article 14 of the Agreement on Agriculture, which emphasizes that WTO members have agreed to give effect to the SPS Agreement.

The SPS Agreement reflects a careful balance of rights and obligations. The Agreement safeguards WTO members' rights to adopt and implement regulations to protect human, animal and plant life or health (including food safety and environmental measures), and to establish the level of protection of life and health they deem to be appropriate. The United States has a strong interest in preserving these rights, which ensure the ability to maintain the U.S. standards of public health and environmental protection.

At the same time, the SPS Agreement establishes obligations designed to ensure that an SPS measure is in fact intended to protect against the risk asserted, rather than to serve as a disguised trade barrier. In particular, the Agreement requires that a measure adopted to protect human, animal and plant life and health be based on science and a risk assessment, and that it be no more restrictive than is necessary to achieve the intended level of human, animal or plant health protection.

The same balance is sought in the SPS Agreement's provisions relating to international sanitary and phytosanitary standards, guidelines and recommendations. Recognizing that the harmonization of international standards may contribute both to improved protection of human, animal and plant life and health and to the removal of unnecessary trade barriers, the Agreement calls for each WTO member to use relevant international standards as a basis for establishing its SPS measures, subject to other provisions of the Agreement. At the same time, the Agreement makes clear that it does not require "downward harmonization," and that no WTO member is required to adopt an international standard if doing so would result in a lower level of human, animal or plant health protection than that government has determined to be appropriate.

In the SPS Committee, the United States has pushed aggressively for full and effective implementation of WTO members' commitments under the SPS Agreement. For example, the United States has provided strong leadership in promoting implementation of the Agreement's transparency and notification provisions, in order to ensure effective surveillance of WTO members' SPS measures. Members' notifications of new SPS measures and other important information are now available on the WTO's internet home page (<http://www.wto.org>). The SPS Agreement's notification procedures, which provide an opportunity for the United States to comment on other WTO members' draft SPS measures in advance, have proven to be increasingly useful in identifying potential trade problems and facilitating the resolution of differences before trade is actually affected.

In recent years, the United States has successfully resolved a number of bilateral trade problems associated with the application of SPS measures in key overseas markets. In these negotiations, reference to the requirements of the SPS Agreement has been an important factor in U.S. trading partners' decisions to eliminate or modify scientifically unjustified SPS measures. The United States has also made active use of the procedures of the WTO Dispute Settlement Body (DSB) to push for the removal of scientifically unjustified SPS measures which have a major impact on U.S. exports.

Persons submitting written comments on the review of the SPS Agreement should provide a statement, in twenty copies, by noon, January 9, 1998, to Gloria Blue, Executive Secretary, TPSC, Office of the U.S. Trade Representative, Room 503, 600 17th Street, NW., Washington, DC 20508. Non-confidential information received will be available for public inspection by appointment in the USTR Reading Room, Room 101, Monday through Friday, 9:30 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. For an appointment call Brenda Webb on 202-395-6186. Business confidential information will be subject to the requirements of 15 CFR 2003.6. Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page, and must be accompanied by a non-confidential summary thereof.

Frederick L. Montgomery,  
Chairman, Trade Policy Staff Committee.

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